

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion to Develop Rules
and Procedures to Preserve the Public Interest
Integrity of Government Financed Funding,
Including Loans and Grants, to Investor-Owned
Water and Sewer Utilities.

Rulemaking 04-09-002
(Filed September 2, 2004)

ASSIGNED COMMISSIONER'S RULING

In this ruling, parties are provided notice and an opportunity to be heard that I am broadening the scope of my March 21, 2005 Scoping Memo and Ruling (Scoping Memo) to include the receipt and use of all state grant funds received by all classes of regulated water utilities. This change is within the scope of this rulemaking and advances the objectives of our Water Action Plan adopted December 15, 2005.¹

In the opening comments filed January 17, 2006 on Administrative Law Judge Christine M. Walwyn's December 27, 2005 draft decision (draft decision), Golden State Water Company (GSWC) recommends we expand the scope of the draft decision to apply to the receipt of all state bond funds by investor-owned water utilities (water utilities), rather than the current scope of only

¹ Specifically, the Water Action Plan seeks to promote water infrastructure investment by the regulated water utilities in order to ensure the public safe, high quality water and highly reliable water supplies.

Proposition 50 grant funds. GSWC states the same rules should apply to all state grant funds and there is a pressing need to conform our draft decision to reflect this due to the numerous new bond measures recently announced under Governor Arnold Schwarzenegger's infrastructure plan. The Governor's proposals for water projects, facilities and programs are set forth in Assembly and Senate bills, AB 1839 (Laird) and SB 1166 (Aanestad and Machado), Flood Protection and Clean, Safe, Reliable Water Supply Bond and Financing Acts of 2006 and 2010. SB 1166 provides generally that:

82014. It is the intention of the people that the investment of public funds (sic) pursuant to this division should result in public benefits.

82015. It is the intention of the people that any public funds made available by this division to investor-owned utilities regulated by Public Utilities Commission will be for the benefit of the ratepayers and not the investors pursuant to oversight by the Public Utilities Commission.

In considering this legislation, GSWC states that policy makers and the public will want to be assured, in advance, that the intent of Sections 82014 and 82015 is satisfied by rules which have been adopted by the Commission. Therefore, GSWC requests the Commission to conform the current draft decision to include all future state grant funds so that "the rules are already in place ensuring that it is the ratepayers and not the shareholders who benefit through the receipt of public funds." (*Id.*, at page 9.)

All parties to this proceeding had an opportunity to reply to GSWC's recommendation in their reply comments filed January 23, 2006. No party objected to GSWC's proposal.

This ruling gives parties notice of my intent to conform the draft decision to include all future state grant funds and provides an opportunity for parties to

file by February 9, 2006 comments on whether there is a need to further develop the record in order to do this. Any party requesting an opportunity to further develop the record shall specifically cite the information that is needed.

Following receipt and review of comments, the Commission may move forward to consider the conformed draft decision at its February 16, 2006 meeting.

IT IS RULED that:

1. The record is reopened for the sole purpose of broadening the scope of my March 21, 2005 Scoping Memo and Ruling (Scoping Memo) to include the receipt and use of all future state grant funds received by all classes of regulated water utilities.

2. Parties may file by February 9, 2006 comments on whether there is a need to further develop the record in order to conform the December 27, 2005 draft decision to this change. Any party requesting an opportunity to further develop the record shall specifically cite the information that is needed.

3. Following receipt and review of comments, the Commission may move forward to consider a conformed draft decision at its February 16, 2006 meeting.

Dated January 26, 2006, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's Ruling on all parties of record in this proceeding or their attorneys of record.

Dated January 26, 2006, at San Francisco, California.

/s/ ELVIRA NIZ

Elvira Niz

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.